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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,530	02/17/2006	Touru Niizaki	00331063PUS1	4991
2292 7590 12/11/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER ABU ALL SHUANGYI				
ART UNIT 1793		PAPER NUMBER		
NOTIFICATION DATE 12/11/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/568,530

Applicant(s)

NIIZAKI, TOURU

Examiner

SHUANGYI ABU ALI

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

Claims 1-5, 8-15 remain for examination wherein claims 6-7 are canceled.

Claim Rejections - 35 USC § 103

The rejection of claims 1-3, 5, 8, and 11-15 under 35 U.S.C. 103(a) as obvious over U. S. Patent No. 6,541,540 to Hashizume as generally set forth in the previous office action mailed 06/11/2008 stands.

The rejection of claims 1-5, 8, 11, 13 and 15 under 35 U.S.C. 103(a) as obvious over U. S. Patent No. 6,203,909 to Chassot as generally set forth in the previous office action mailed 06/11/2008 stands.

The rejection of claim 9 under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,541,540 to Hashizume or U. S. Patent No. 6,203,909 to Chassot., in view of U.S. Patent No. 5,270,445 to Hou as generally set forth in the previous office action mailed 06/11/2008 stands.

The rejection of claim 10 under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,541,540 to Hashizume or U. S. Patent No. 6,203,909 to Chassot., in view of GB 2111522 A to Banba as generally set forth in the previous office action mailed 06/11/2008 stands.

The text of those sections of title 35 US Code not included in this action can be found in the prior Office Action.

Response to Arguments

Applicant's arguments filed 09/11/2008 have been fully considered but they are not persuasive. Therefore, the grounds of rejection for claims 1-5, 8-15 as indicated in the previous Office Action stand.

Applicant mainly argues that the prior art is silent about the relationship between the resin and flake pigment.

$$|C_R - C_A| \leq 10 \quad (1)$$

$$10 \leq C_A \leq 40 \quad (2)$$

In the expressions (1) and (2), C_A denotes the charge value ($\mu\text{C/g}$) of the flake pigment and C_R denotes the charge value ($\mu\text{C/g}$) of the resin powder.

The Examiner respectfully submits that the charge value is a property for a material. The prior art discloses powder composition comprising a flaky pigment, charge control agent and a resin. The flaky pigment is treated with the charge control agent. The difference between the charge control value between the flaky pigment and the resin is determined by the charge control agent and resin. Furthermore, the attorney did not provide any factual evidence to show the contrary, and the attorney's argument can not take the place of the factual evidence.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHUANGYI ABU ALI whose telephone number is (571)272-6453. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorenzo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.A. LORENZO/
Supervisory Patent Examiner, Art Unit 1793

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